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U. S. DEPARTMENT OF AGRICULTURE

S. R. A.—P. M. A. 93 (Revised)

Issued August 25, 1925  
Last revised January 20, 1949

# UNITED STATES DEPARTMENT OF AGRICULTURE

## PRODUCTION AND MARKETING ADMINISTRATION

### SERVICE AND REGULATORY ANNOUNCEMENTS NO. 93<sup>1</sup>

# RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE INSPECTION AND CERTIFICATION OF FRUITS, VEGETABLES, AND OTHER PRODUCTS

(Title 7, Ch. I, Pt. 51 of the Code of Federal Regulations)

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Effective as of January 20, 1949, the Acting Secretary of Agriculture issued the following revision of the regulations covering the inspection and certification of fruits, vegetables, and other products (7 C.F.R., Supps. 51.1 to 51.49, inclusive), which revision was published in the Federal Register for January 15, 1949 (14 F. R. 211-217):

<sup>1</sup>This publication was originally issued as Service and Regulatory Announcements No. 93 of the Bureau of Agricultural Economics.

## ADMINISTRATION

**51.1 Administration of regulations.**—The Administrator, Production and Marketing Administration, United States Department of Agriculture, is charged with the administration of the regulations in this part, and he may delegate any or all of such functions to any other officer or employee of the Production and Marketing Administration of the Department, in his discretion.

## DEFINITIONS

**51.2 Meaning of words.**—Words in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

**51.3 Terms defined.**—For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall have the following meanings:

(a) "Act" means the following provisions of the Department of Agriculture Appropriation Act, 1949 (Pub. Law 712, 80th Cong., 2d Sess.), or any other present or future act of Congress conferring similar authority:

*Market inspection of farm products.*—For the investigation and certification, in one or more jurisdictions, to shippers and other interested parties of the class, quality, and condition of any agricultural commodity or food product, whether raw, dried, canned, or otherwise processed, and any product containing an agricultural commodity or derivative thereof when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the services rendered.

(b) "Department" means the United States Department of Agriculture.

(c) "Administrator" means the Administrator of the Production and Marketing Administration of the Department.

(d) "Person" means any individual, partnership, association, business trust, corporation, organized group of persons (whether incorporated or not), the United States (including, but not limited to, corporate agencies thereof), and any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.

(e) "Interested party" means any person who has a financial interest in the product on which inspection is requested.

(f) "Inspector" means any employee of the Department who is authorized by the Secretary, or any other person licensed by the Secretary, to investigate, sample, inspect, and certify, in accordance with the regulations in this part, to any interested party the quality and/or condition of any product covered under this part, and to perform related duties in connection with such inspection services.

(g) "Inspection certificate" means a statement, in written and/or printed form, issued pursuant to the regulations in this part, setting forth, in addition to appropriate descriptive information relative to the particular product and the containers thereof, the quality and/or condition of such product.

(h) "Quality" means the combination of the inherent properties of a product which determines its relative degree of excellence.

(i) "Condition" means the relative degree of soundness or preservation of a product and includes, but is not necessarily limited to, its maturity, decay, freezing or mechanical injury, shriveling, flabbiness, or any other factor which affects its merchantability.

(j) "Lot" means the quantity of the same kind of product offered for inspection at the same general time by an interested party, except that different varieties of the same kind of product, other than peanuts, pecans, and other nuts, shall not be considered as separate lots.

## INSPECTION SERVICE

**51.4 Inspection service.**—Products will be inspected at appropriate points indicated in paragraphs (a), (b), and (c) of this section whenever inspectors are available.



(a) *Shipping points.*—Inspection is available in all States with which co-operative agreements providing for this work have been entered into on behalf of the Department pursuant to authority contained in any act of Congress.<sup>2</sup>

(b) *Designated markets.*—The following are designated as important central markets at which products may be inspected under the act: Birmingham, Mobile, Montgomery, Ala.; Phoenix, Ariz.; Little Rock, Ark.; Los Angeles, Oakland, Sacramento, San Diego, San Francisco, Calif.; Denver, Colo.; Hartford, Conn.; Washington, D. C.; Jacksonville, Miami, Tampa, Winter Haven, Fla.; Atlanta, Ga.; Chicago, Ill.; Indianapolis, Ind.; Baton Rouge, New Orleans, La.; Baltimore, Md.; Boston, Mass.; Detroit, Mich.; Duluth, Minneapolis, Minn.; Jackson, Miss.; Kansas City, St. Louis, Mo.; Newark, Trenton, N. J.; Albany, Buffalo, New York City, Rochester, Syracuse, N. Y.; Asheville, Charlotte, Raleigh, N. C.; Fargo, N. Dak.; Cincinnati, Cleveland, Columbus, Youngstown, Ohio; Oklahoma City, Tulsa, Okla.; Portland, Oreg.; Harrisburg, Philadelphia, Pittsburgh, Wilkes-Barre, Pa.; Columbia, S. C.; Memphis, Nashville, Tenn.; Dallas, Fort Worth, Houston, San Antonio, Tex.; Salt Lake City, Utah; Norfolk, Richmond, Roanoke, Va.; Seattle, Wash.; Milwaukee, Wis.<sup>2</sup>

(c) *Other points.*—Inspection may be made at any point which may be conveniently reached from any market referred to in paragraph (b) of this section under conditions provided in section 51.41 and to the extent permitted by the time of the nearest inspector.

**51.5 Kind of service.**—Inspection of products may be made according to quality and/or condition, and, in the discretion of the Administrator, for any part thereof.

**51.6 Who may obtain service.**—An application for inspection may be made by any interested party, or by his authorized agent.

**51.7 How to make application.**—Application for inspection may be filed in an office of inspection at any market referred to in section 51.4 (a) or (b) or with any inspector. It may be made in writing, orally, by telegraph, or by telephone. If made orally or by telephone, the inspector may require that it be confirmed by applicant in writing or by telegraph. An application may be made for one or more lots, or it may be in the nature of a blanket application for inspection of all designated lots of a given commodity within a particular period, or for all designated lots loaded or received at a specified point.

**51.8 Form of application.**—Each application for inspection shall state (a) the name and post-office address of the applicant and the name and capacity of the person, if any, making the application in his behalf; (b) the name and post-office address of the shipper; (c) the kind and quantity of the products involved; (d) the interest of the applicant therein; (e) the identification of the products by (1) grade, brand, or other marks, if practicable, (2) car initials, car number, and name of carrier or number of truck or name of boat, if practicable, and (3) the name and location of the store, warehouse, or other place where the products are located; (f) the particular quality or condition concerning which inspection is requested, to which may be added the time and place at which it is desired that the inspection be made; (g) when the lot is to be inspected in a receiving market, the name and address of the receiver; (h) the name of the shipping point and of the destination, when known; and (i) such other information as may be necessary for identification of the product, or as may be required by the inspector or the Administrator.

**51.9 Filing of application.**—An application shall be deemed filed when received at the office of inspection nearest the place where the commodity is located. A record showing the date and time of filing shall be made and kept in such office.

**51.10 When application may be rejected.**—An application may be rejected by the inspector in charge of the appropriate office of inspection for failure of the applicant (a) to observe the regulations in this part, (b) to furnish necessary information or to make the commodity reasonably available or accessible for inspection, or (c) when it appears that to perform the inspection and cer-

<sup>2</sup> The addresses of the offices at these points or markets are changed from time to time. However, any prospective applicant may obtain the address of the office nearest the place where the commodity which he wishes to have inspected is located by addressing an inquiry to "Food Products Inspection Service" at any of the following offices: 1. Production and Marketing Administration, Washington 25, D. C. 2. Room 836A, 641 Washington Street, New York 14, N. Y. 3. 1421 South Aberdeen Street, Chicago 8, Ill. 4. 739 Appraiser's Building, San Francisco 11, Calif.

tification service would not be to the best interests of the Government. Such applicant shall be notified promptly of the reason for such rejection.

**51.11 When application may be withdrawn.**—An application may be withdrawn by the applicant at any time before the inspection is performed: *Provided*, That the applicant shall pay any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.

**51.12 Authority to request inspection.**—Proof of the interest of an applicant in the product involved, or of the authority of any person applying for inspection in behalf of another may be required, in the discretion of the inspector.

**51.13 Accessibility of products.**—The applicant shall cause the products for which inspection is requested to be made reasonably accessible for sampling or inspection and to be so placed as to disclose their quality or condition. Samples of the products drawn for examination shall be inspected only under such conditions as, in the opinion of the inspector, will permit a true and correct determination to be made of their quality or condition.

**51.14 Basis of service.**—Inspection and certification service for quality and/or condition shall be based on the appropriate recommended standards promulgated by the United States Department of Agriculture, applicable standards prescribed by the laws of the State where the particular product was produced which are generally recognized and used therein, specifications of any governmental agency, written buyer and seller contract specifications, or any written specification by an applicant which is approved by the Administrator: *Provided*, That, if such product is regulated under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 208, 707), such inspection and certification shall be on the basis of the standards, if any, prescribed in, or pursuant to, the marketing order and/or agreement effective thereunder.

**51.15 Order of inspection.**—Inspection shall, insofar as practicable, be made in the order in which applications are received, except that precedence shall be given (a) to the inspection of lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 (7 U. S. C. 499a et seq.), and (b) to appeal inspections. Precedence may also be given to applications made on behalf of the Federal Government or of a State Government.

**51.16 Financial interest of inspector.**—No inspector shall inspect any products in which he is financially interested, either directly or indirectly.

**51.17 Postponing inspection.**—If the inspector has reason to believe that, because of latent defects due to climatic or other conditions, he is unable to determine the true quality or condition of the product, he shall postpone examination for such period as may, in his judgment, be reasonably necessary to enable him to determine its true quality or condition.

**51.18 Official sampling.**—Samples may be officially drawn by any duly authorized inspector and delivered, or shipped, for analysis and certification to the nearest designated market or to such market as shall be directed by the Administrator. The container in which such samples are delivered, or shipped, shall contain a statement, signed by the inspector who drew the samples, showing the time and place of the sampling and the brands or other identifying marks of the containers from which the samples were drawn. The certificate based on such samples shall show the time and place of drawing the samples, and the name of the inspector by whom they were drawn.

**51.19 Certificate form.**—Certificates shall be issued on forms approved by the Administrator: *Provided*, That when an application for inspection is made by any person for the purpose of determining whether food products for use by such applicant comply with contract specifications therefor, a formal certificate need not be issued, but the fact of such compliance or noncompliance may be indicated by appropriate stamp or mark on such products or the containers thereof, or otherwise, in the discretion of the inspector.

**51.20 Certificates, issuance.**—The inspector shall sign and issue a separate certificate for each lot inspected by him, except that when an application covers a number of lots a single certificate may be issued to cover all such lots.

**51.21 Certificates, disposition.**—The original certificate, and not to exceed four copies (if requested by applicant prior to issuance), shall be delivered or mailed promptly to the applicant or to a person designated by him. One copy shall be filed in the office of the inspector when the inspection is made by a Federal Government employee, otherwise it shall be filed in the appropriate office of the cooperating State agency. One copy shall be forwarded to the Administrator



to be kept on file in Washington, except that copies of certificates showing the grades of individual grower's lots offered for manufacturing or other purposes need not be so forwarded. In the case of any product covered by a marketing agreement and/or order effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 208, 707), at least one copy of each certificate covering the inspection of such product shall, on request, be delivered to the administrative agency established thereunder, subject to such terms and conditions as the Secretary may prescribe. Copies will be furnished to other interested parties as outlined in section 51.42.

**51.22 Advance information.**—Upon request of an applicant, all or any part of the contents of a certificate covering an inspection requested by him may be telegraphed or telephoned to him, or to any person designated by him, at his expense. If the application for such information is received after the certificate has been issued, it will be considered as an application for an extra copy of the certificate, and the fees prescribed in section 51.42 shall apply.

## APPEAL INSPECTION

**51.23 When appeal may be taken.**—An application for appeal inspection may be made whenever any financially interested person is dissatisfied with the determination stated in the original certificate.

**51.24 How to obtain.**—An appeal inspection may be obtained by the applicant, or other person financially interested in the product, by filing a request (a) with the inspection office nearest the point where the product is located, or (b) with the inspector who made the original inspection, or (c) with any district supervisory inspection office, or (d) with the Administrator. The application for appeal shall state the reasons therefor, and shall be accompanied by a copy of any previous inspection certificate or inspection report, and any other information which the applicant received regarding the quality or condition of the product at the time of the original inspection. Such application may be made orally or in writing, or by telegraph or telephone. If made orally or by telephone, the application shall be confirmed in writing.

**51.25 Record of filing time.**—A record showing the date and time of filing an application shall be made promptly by the receiving office.

**51.26 When appeal inspection may be refused.**—An application for an appeal inspection may be refused if, (a) the reasons for the appeal inspection are frivolous or not substantial; (b) the quality or condition of the product has undergone a material change since the inspection covering the product on which the appeal inspection is requested; (c) the lot in question is not, or cannot be, made accessible for inspection; (d) the lot relative to which appeal inspection is requested cannot be identified positively by the inspector as the lot which was previously inspected; or (e) there is noncompliance with the regulations in this part. Such an applicant shall be notified promptly of the reason for the refusal.

**51.27 When an application for an appeal inspection may be withdrawn.**—An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That the applicant shall pay any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.

**51.28 Order in which made.**—Appeal inspections shall be made, insofar as practicable, at the time requested by applicant and in the order in which applications are received. They shall take precedence over all other pending applications, except inspections covering lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 (7 U. S. C. 499a et seq.).

**51.29 Who shall make appeal inspections.**—Appeal inspections shall be made by an inspector or inspectors designated therefor by the Administrator.

**51.30 Appeal findings.**—The inspector or inspectors making an appeal inspection shall sign and issue an appeal inspection certificate, which shall supersede and refer specifically to the original inspection certificate from which the appeal was taken, and contain a statement as to the quality or condition of the product, as determined by the appeal inspection. In all other respects the provisions of sections 51.5 to 51.22, insofar as applicable, shall apply to appeal inspection certificates, except that if the applicant for appeal inspection is not the original applicant, a copy of the appeal inspection certificate shall be mailed to the original applicant.

**51.31 Superseded certificates.**—When an original inspection certificate shall have been superseded by an appeal inspection certificate, such original inspection certificate shall not thereafter represent the quality or condition of the product described therein. If the original and all copies of the superseded certificate are not submitted to the person receiving the application for appeal inspection, the officer issuing the superseding certificate shall forward notice of such issuance and of the superseding of the original certificate to such persons as he considers necessary to prevent fraudulent use of the superseded certificate.

## LICENSED INSPECTORS

**51.32 Who may be licensed.**—Persons possessing adequate qualifications, as determined by such examinations as the Administrator may consider to be appropriate, may be licensed by the Secretary as inspectors of products which may be inspected under the regulations in this part. Such licenses shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. A licensed inspector shall perform his duties pursuant to these regulations as directed by the Administrator.

**51.33 Application to become a licensed inspector.**—Application to become a licensed inspector shall be made to the Administrator on forms furnished for that purpose. Each such application shall be filled in and signed by the applicant in his own handwriting, and the application shall contain or be accompanied by:

- (a) A statement of present address, age, height, and weight of the applicant;
- (b) A statement showing education and present and previous occupations, together with names of all employers for whom he has worked, with periods of service, during the last 5 years previous to the date of his application;
- (c) A statement by the applicant that he agrees to comply with all the terms and conditions of the regulations in this part relating to the duties of inspectors; and
- (d) Such other information as may be required by the Administrator.

**51.34 Suspension or revocation of license of licensed inspector.**—Pending final action by the Secretary, the Administrator may, whenever he deems such action necessary, suspend the license of any licensed inspector issued pursuant to the regulations in this part by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary shall take such action as he deems appropriate with respect to such suspension or revocation.

**51.35 Surrender of license.**—Upon termination of his services as a licensed inspector, or suspension or revocation of his license, a licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in a case of an expired license.

## FEES AND CHARGES

**51.36 Amount of fees, rates, and charges.**—For each lot of products inspected, a fee, and expenses, determined in accordance with sections 51.37 to 51.41 shall be paid by the applicant.

**51.37 Basis for charges.**—(a) The fee for each lot of products inspected by a salaried inspector acting exclusively for the Department of Agriculture, except for peanuts, pecans, and other nuts, shall be on the following basis:

For an inspection covering quality and condition, \$7.50 when the quantity involved is more than one-half of a carload of the customary size for such products in the area from which shipped but not more than a full carload, and \$5 when the quantity involved is not more than one-half of such carload, but the maximum fee for any carload not exceeding the customary size shall be \$15. For an inspection covering condition only, \$6 when the quantity involved is more than one-half of carload of the customary size for such products in the area from which shipped but not more than a full carload, and \$4 when the quantity involved is not more than one-half of such carload, but the maximum fee for condition only inspection of any carload not exceeding the customary size shall be \$12.

(b) For each lot of peanuts, pecans, or other nuts inspected, except pursuant to the provisions in section 51.19, the fee shall be \$10 when the quantity involved is



not more than a full carload; *Provided*, That the different grades and varieties of peanuts shall be considered separate lots.

(c) When any lot involved is in excess of a carload the quantity shall be calculated in terms of carloads and fractions thereof of the customary size for such carloads and carload rates aforesaid applied: *Provided*, That said fractions shall be calculated in terms of fourths or next higher fourths. When inspections are made on which formal certificates are not issued, as provided in section 51.19, or when the products inspected cannot readily be calculated in terms of carlots, or when the services rendered are such that a charge on the carlot basis would be inadequate or inequitable, charges for inspection may be based on the time consumed by the inspector in connection with such inspections, computed at the rate of \$3 per hour, or the charges may be based upon the number of pounds or number of containers in the lot inspected, if such charges are in substantial conformity with the hourly or carload rate.

**51.38 Fees for inspections by licensee who is working under contract with the Administrator.**—The Administrator may enter into a contract with any licensed inspector authorizing him to make inspections under the act in a designated area; to collect fees for such inspections at rates prescribed in the contract; and direct him to transmit such fees, less a designated percentage which he may retain as compensation for his services in making such inspections, to the Production and Marketing Administration at such times and in such manner as the contract shall provide.

**51.39 Fees under cooperative agreement.**—Fees for inspections made under cooperative agreements pursuant to authority contained in any act of Congress shall be those provided for by such agreements.

**51.40 Fees for appeal inspections.**—Fees for appeal inspections on all products shall be double those for original inspections, except that when it is found that there was a material error in the determination based upon the original inspection no fee will be charged, and except that appeal inspection for Government agencies shall be on the hourly basis prescribed in section 51.37, plus traveling and other expenses authorized to be charged by the provisions in section 51.41. The maximum fee for the appeal inspection of a single car shall not exceed \$20.

**51.41 Traveling, and other expenses.**—Such further charges may be made for traveling expenses and other items paid or incurred by the Production and Marketing Administration in connection with an inspection made at a place where no inspector is located, or appeal inspection where the services of a second inspector are required, as will reimburse the Production and Marketing Administration. These charges shall be included with the fee for inspection on the bill furnished the applicant.

**51.42 Fees for additional copies of inspection certificates.**—Additional copies of any inspection certificate other than those provided for in section 51.21, may be supplied to any interested party upon payment of a fee of \$1.50 for each set of 3, or less, copies.

**51.43 Charges for inspection services on a contract basis.**—Irrespective of fees and charges prescribed in foregoing sections, the Administrator may enter into contracts with applicants to perform inspection services pursuant to the regulations in this part and other requirements as prescribed by the Administrator in such contract, and the charges for such inspection services provided for in such contracts shall be on such bases as will reimburse the Production and Marketing Administration of the Department for the full cost of rendering such inspection service, including an appropriate overhead charge to cover, as closely as practicable, administrative overhead expenses, as may be determined by the Administrator.

**51.44 How fees shall be paid.**—Fees shall be paid by the applicant in accordance with the directions on the fee bill furnished him by the inspector, and in advance, if required by the inspector.

**51.45 Disposition of fees.**—The fees covered by sections 51.37 to 51.39 shall be disposed of as follows:

(a) Fees for inspections made by salaried inspectors acting exclusively for the Production and Marketing Administration shall be remitted promptly to the Administrator.

(b) Fees for inspections made by a licensed inspector acting exclusively for the Production and Marketing Administration, less the percentage thereof which

he is allowed by the terms of his contract of employment as compensation for his services, shall be remitted to the Production and Marketing Administration.

(c) Fees for inspections made by an inspector acting under a cooperative agreement with a State or other organizations shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement with a State as may be due the United States shall be remitted to the Production and Marketing Administration.

Fees covered by sections 51.40 to 51.43 shall be remitted to the Production and Marketing Administration.

## MISCELLANEOUS

**51.46 Fraud or misrepresentation.**—Any willful misrepresentation or any deceptive or fraudulent practice found to be made or committed by any person in connection with: (a) The making or filing of an application for any inspection service; (b) the making the product accessible for sampling or inspection; (c) the use of any inspection report or any inspection certificate, or appeal inspection certificate issued under the regulations in this part; (d) the use of a facsimile form which simulates, in whole or in part, any official certificate authorized to be issued under these regulations in this part for the purpose of purporting to evidence the U. S. grade of any product; or (e) any willful violation of the regulations in this part, or supplementary rules or instructions issued by the Administrator, may be deemed sufficient cause for debarring such person from any or all benefits of the act.

**51.47 Political activity.**—All inspectors are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, are prohibited. This applies to all appointees or licensees, including, but not limited to, temporary and cooperative employees and employees on leave of absence, with or without pay. Willful violations of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

**51.48 Interfering with an inspector.**—Any further benefits of the act may be denied any applicant or other interested party who, either personally or through an agent or representative, interferes with or obstructs, by intimidation, threats, assault, or in any other manner, an inspector in the performance of his duties.

**51.49 Compliance with other laws.**—None of the requirements in the regulations of this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to products covered in the regulations in this part.

**51.50 Identification.**—Each inspector shall have in his possession at all times, and present upon request, while on duty, the means of identification furnished by the Department to such person.

**51.51 Publication.**—Publication under the act and in this part shall be made in the Federal Register, the Service and Regulatory Announcements of the Department, and such other media as the Administrator may approve for the purpose.

Issued at Washington, D. C., this 12th day of January, 1949.

[SEAL]

A. J. LOVELAND,  
*Acting Secretary of Agriculture.*